



## INTERIOR BOARD OF INDIAN APPEALS

Thomas E. Edwards v. Northwest Regional Director, Bureau of Indian Affairs

36 IBIA 235 (07/25/2001)

Related Board case:  
34 IBIA 215



## United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
4015 WILSON BOULEVARD  
ARLINGTON, VA 22203

THOMAS E. EDWARDS,  
Appellant

v.

NORTHWEST REGIONAL DIRECTOR,  
BUREAU OF INDIAN AFFAIRS,  
Appellee

: Order Docketing and Dismissing  
: Appeal  
:  
:  
: Docket No. IBIA 01-152-A  
:  
:  
: July 25, 2001

On July 20, 2001, the Board of Indian Appeals received a notice of appeal from Thomas E. Edwards (Appellant), who states that he is appealing (1) the failure of the Northwest Regional Director (formerly Portland Area Director), Bureau of Indian Affairs, to issue a decision in his appeal dated April 20, 2001, concerning the bill he received for 2001 irrigation operation and maintenance charges, and (2) the failure of the Regional Director to send him a new bill for 1998 operation and maintenance charges pursuant to the Board's decision in Edwards v. Portland Area Director, 34 IBIA 215 (2000).

With respect to both issues, Appellant is attempting to appeal the purported inaction of the Regional Director. The inaction of a BIA official is made appealable under 25 C.F.R. § 2.8. However, that regulation establishes specific procedures which must be followed before there is a right to proceed to a higher official. <sup>1/</sup> Where an appellant seeking to appeal the

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<sup>1/</sup> 25 C.F.R. § 2.8 provides:

“(a) A person or persons whose interests are adversely affected, or whose ability to protect such interests is impeded by the failure of an official to act on a request to the official, can make the official's inaction the subject of appeal, as follows:

“(1) Request in writing that the official take the action originally asked of him/her;

“(2) Describe the interest adversely affected by the official's inaction, including a description of the loss, impairment or impediment of such interest caused by the official's inaction;

“(3) State that, unless the official involved either takes action on the merits of the written request within 10 days of receipt of such request by the official, or establishes a date by which action will be taken, an appeal shall be filed in accordance with this part.

“(b) The official receiving a request as specified in paragraph (a) of this section must either make a decision on the merits of the initial request within 10 days from receipt of the request for a decision or establish a reasonable later date by which the decision shall be made,

inaction of a BIA official fails to comply with the regulatory requirements, his appeal must be dismissed as premature. E.g., Felter v. Western Regional Director, 36 IBIA 98 (2001).

It is apparent from the materials submitted by Appellant that he has not complied with the requirements of 25 C.F.R. § 2.8.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this appeal is docketed but dismissed without prejudice as premature.

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//original signed

Anita Vogt  
Administrative Judge

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//original signed

Kathryn A. Lynn  
Chief Administrative Judge

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fn.1 (continued)

not to exceed 60 days from the date of request. If an official establishes a date by which a requested decision shall be made, this date shall be the date by which failure to make a decision shall be appealable under this part. If the official, within the 10-day period specified in paragraph (a) of this section, neither makes a decision on the merits of the initial request nor establishes a later date by which a decision shall be made, the official's inaction shall be appealable to the next official in the process established in this part."